

Schedule 13
Supplemental Request for FY 2007-08 Budget Cycle

Decision Item FY 2008-09 ☐

Base Reduction Item FY 2008-09 ☐

Supplemental FY 2007-08 ☒

Budget Request Amendment FY 2008-09 ☐

Request Title: **Emergency Increase to Witness Protection Program**

Department: **Department of Public Safety**

Priority Number: **1**

Dept. Approval by: *[Signature]*

Date: **February 14, 2008**

OSPB Approval: *[Signature]*

Date: **2/15/08**

		1	2	3	4	5	6	7	8	9	10
Fund		Prior-Year Actual FY 2006-07	Appropriation FY 2007-08	Supplemental Request FY 2007-08	Total Revised Request FY 2007-08	Base Request FY 2008-09	Decision/Base Reduction FY 2008-09	November 1 Request FY 2008-09	Budget Amendment FY 2008-09	Total Revised Request FY 2008-09	Change from Base (Column 5) FY 2009-10
Total of All Line Items	Total	159,042	100,000	101,532	201,532	100,000	-	100,000	-	100,000	-
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	87,996	50,000	40,000	90,000	50,000	-	50,000	-	50,000	-
	CF	1,305	-	-	-	-	-	-	-	-	-
	HUTF	-	-	-	-	-	-	-	-	-	-
	CFE	69,741	50,000	61,532	111,532	50,000	-	50,000	-	50,000	-
	FF	-	-	-	-	-	-	-	-	-	-
(1) Executive Director's Office	Total	87,996	50,000	40,000	90,000	50,000	-	50,000	-	50,000	-
(B) Special Programs	FTE	-	-	-	0.0	0.0	0.0	0.0	-	0.0	-
(1) Witness Protection Program	GF	87,996	50,000	40,000	90,000	50,000	-	50,000	-	50,000	-
	CF	-	-	-	-	-	-	-	-	-	-
Witness Protection Fund	HUTF	-	-	-	-	-	-	-	-	-	-
	CFE	-	-	-	-	-	-	-	-	-	-
	FF	-	-	-	-	-	-	-	-	-	-
(1) Executive Director's Office	Total	71,046	50,000	61,532	111,532	50,000	-	50,000	-	50,000	-
(B) Special Programs	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-	0.0	-
(1) Witness Protection Program	GF	-	-	-	-	-	-	-	-	-	-
	CF	1,305	-	-	-	-	-	-	-	-	-
Witness Protection Fund Expenditures	HUTF	-	-	-	-	-	-	-	-	-	-
	CFE	69,741	50,000	61,532	111,532	50,000	-	50,000	-	50,000	-
	FF	-	-	-	-	-	-	-	-	-	-

Letternote revised text:

Cash Fund Name/Number, Federal Fund Grant Name: **Witness Protection Fund**

IT Request ☐ es ☒ o

Request Affects Other Departments: ☐ es ☒ o

If Yes, List Other Departments Here:

SUPPLEMENTAL REQUEST for FY 07-08 BUDGET REQUEST CYCLE

Department:	Department of Public Safety
Priority Number:	1
Change Request Title:	Emergency Increase for Witness Protection

SELECT ONE (click on box):

- ☐ Decision Item FY 08-09
☐ Base Reduction Item FY 08-09
☒ Supplemental Request FY 07-08
☐ Budget Request Amendment FY 08-09

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:

- ☐ Not a Supplemental or Budget Request Amendment
☒ An emergency
☐ A technical error which has a substantial effect on the operation of the program
☐ New data resulting in substantial changes in funding needs
☐ Unforeseen contingency such as a significant workload change

Short Summary of Request:

The Department requests a FY 2007-08 General Fund appropriation to the Witness Protection Fund of \$40,000 and an increase in Cash Funds Exempt spending authority from the Fund of \$61,532.

The Witness Protection Program and Witness Protection Fund were created by S.B. 95-031 to provide for the security and protection of a witness or potential witness in a criminal trial or proceeding. Upon the approval of the Witness Protection Board, the Department expends dollars from the Fund to pay district attorneys for qualifying expenses.

Background and Appropriation History: **History of the Witness Protection Board**

Senate Bill 95-031 (24-33.5-106 C.R.S.) created the Witness Protection Board, comprised of the following three members (or their respective designees):

- the Attorney General;
- the Executive Director of the Department of Public Safety; and
- the Executive Director of the Colorado District Attorneys Council.

The Witness Protection Board is responsible for operating the Witness Protection Program, which is to provide for the security and protection of a witness or potential witness in a criminal trial or proceeding. The Witness Protection Program may also provide protection for family members or close friends, if those individuals are threatened.

Through this Program, the Board may fund reasonable expenses related to the security and protection of a witness or potential witness. This may include security personnel, travel expenses, food, lodging, and other immediate needs. Per the provisions of the Witness Protection statutes, only a district attorney or an assistant attorney general may request funds from the Board.

In conjunction with the Program, S.B. 95-031 also created the Witness Protection Fund, to which the General Assembly may make appropriations to support the Program. At the end of any fiscal year, any unexpended moneys in the fund remain there, and do not revert to the General Fund.

The Fund received a General Fund appropriation of \$250,000 as part of S.B. 95-031, and a second General Fund appropriation of \$78,250 in FY 1999-00. Since 1995, expenditures from the fund have ranged from a minimum of \$6,947 in FY 1995-96 to a maximum of \$87,132 in FY 2000-01.

The following table summarizes the expenditures from the Fund for the last five fiscal years, the year-end balance for the Fund, and the total number of requests from statutorily-authorized entities to provide funds for witness protection:

Witness Protection Appropriations and Expenditures						
	Spending Authority Approp. (Including Supplementals)	Total Expenditures	Number of Requests for Funding	Total Number of Individuals Protected	Average Expense per Request	Remaining Fund Balance
FY 2000-01	\$ 100,000	\$ 87,132	83	--	\$ 1,050	\$ 165,229
FY 2001-02	\$ 50,000	\$ 31,449	26	--	\$ 1,210	\$ 142,944
FY 2002-03	\$ 50,000	\$ 23,669	31	--	\$ 764	\$ 125,724
FY 2003-04	\$ 50,000	\$ 32,884	23	--	\$ 1,430	\$ 96,121
FY 2004-05	\$ 50,000	\$ 31,578	34	--	\$ 929	\$ 67,536
FY 2005-06	\$ 90,370	\$ 90,156	27	67	\$ 3,339	\$ 2,184
FY 2006-07	\$ 90,180	\$ 71,046	54	97	\$ 1,316	\$ 20,438
FY 2007-08 (YTD)	\$ 50,000	\$ 41,965	25	66	\$ 1,508	\$ 29,567

During Calendar Year 2007, the Board provided funds to protect a total of 73 witnesses, potential witnesses, family members, or close associates thereof.

To date, during FY 2007-08, the Board has provided funds to protect a total of 66 witnesses, potential witnesses, family members, or close associates thereof, as of December 31, 2007. Total expenditures and remaining fund balance amounts are as of the period ending December 31, 2007.

Beginning in FY 2000-01, and in each subsequent year, the General Assembly has given a spending authority appropriation from the Fund of \$50,000 Cash Funds Exempt to the Department. This appropriation generally allows sufficient flexibility for the Department to respond to all necessary requests from judicial districts around the State. Any

reversion of this spending authority has no practical effect to either the Witness Protection Fund or the General Fund.

General Description of Request:

Witness Protection Expenditures in FY 2007-08

The Department began FY 2007-08 with a balance of \$20,438 in the fund. Based on recent activity in the fund, it was projected that this balance would allow for regular witness protection expenditures through FY 2007-08. Accordingly, the Department had begun preparations to submit a decision item to replenish the fund in FY 2008-09.

In December 2007, however, the Board received sizeable requests for witness protection funds relating to high-profile criminal cases in Colorado. These requests are continuing into January, 2008, and the requesting agencies have indicated that this high level of expenditures will likely continue throughout the balance of FY 2007-08.

Consequences if Not Funded:

Without an increase in the balance of the Fund, and a corresponding increase in spending authority from the Fund, the Department will be unable to fulfill its statutory duty to respond to requests from Colorado attorney generals' offices for funding to provide security to witnesses and potential witnesses.

Calculations for Request:

Summary of Request FY 08-09	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	\$101,532	\$40,000	\$0	\$61,532	\$0	0.0
Witness Protection Fund	\$40,000	\$40,000	\$0	\$0	\$0	0.0
Witness Protection Fund Expenditures	\$61,532	\$0	\$0	\$61,532	\$0	0.0

Assumptions for Calculations:

The Following table summarizes the impact of both actual and projected monthly expenditures from the Witness Protection Fund in FY 2007-08. The beginning fund balance consists of the following: FY 2007-08 fund balance of \$20,438, FY 2007-08 spending authority of \$50,000, and interest in the amount of \$1,094, for a total beginning fund balance of \$71,532.

FY 2007-08 Beginning Fund Balance	71,532
FY 2007-08 Expenditures	
July 2007 Actual	-
August 2007 Actual	412
September 2007 Actual	-
October 2007 Actual	3,420
November 2007 Actual	4,653
December 2007 Actual	11,126
January 2008 Actual	22,354
February 2008 Projected	23,423
March 2008 Projected	11,536
April 2008 Projected	11,536
May 2008 Projected	11,536
June 2008 Projected	11,536
Total FY 2007-08 Expenditures	111,532
Projected Fund Balance	(40,000)

In the above table, projected expenditures for March 2008 through June 2008 are based on \$11,536 per month for continuing expenses and witness protection requests related to the cases that began in December 2007 and January 2008. February 2008 expenditures are based on requests that have been received by the Department, but not yet approved by the board.

This table demonstrates that the current balance in the Witness Protection Fund will likely be insufficient by \$40,000 to support necessary expenditures in FY 2007-08. Moreover, the Department will require an additional \$61,532 in Cash Funds Exempt spending authority to meet projected FY 2007-08 expenditures.

Cost Benefit Analysis:

The state is required to provide funds for the security and protection of a prosecution witness or potential prosecution witness during or subsequent to an official proceeding or investigation that involves great public interest. Without state funding of the witness protection program, the witness or potential witness would most likely be put into a dangerous situation or a situation of retaliation. The effect of this would be detrimental to the witness, and/or families of the witness and to the ongoing investigation. The funds requested to replenish this fund are minimal in comparison to the benefits received from the cooperation of the witness, which is in return compensated by giving the assurance of the witness' protection.

Implementation Schedule:

With passage of this emergency supplemental request, the Department will immediately begin to expend dollars from the Fund.

Statutory and Federal Authority:

The Witness Protection Program and Witness Protection Fund are statutorily authorized in 24-33.5-106 C.R.S.

Performance Measures:

Performance will be evaluated through the following criteria:

- The total number of witnesses, potential witnesses, and family members protected with the use of dollars from the Witness Protection Fund; and
- The ability of the Department to provide funding for expenses deemed necessary for providing witness protection by the Witness Protection Board.